

Request for City Council Committee Action from the Department of Public Works

May 14, 2013

Date:

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То:	Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee
Subject:	Public Hearing: Downtown Business Improvement Special Service District Ordinance Renewal
Recommendation:	
	Renew MCO Chapter 465: Downtown Business Improvement Special Service District for an additional five year period.
Previous Directives:	
	• April 12, 2013 – Council Introduction of <i>Chapter 465: Downtown Business Improvement Special Service District</i> for the purpose of renewing the district.
	<u>December 12, 2008</u> - Council Adoption of Ordinance 2008-Or-102 to establish the Downtown Business Improvement Special Service District.
Department Information:	
	Andrew Carlson Project Manager, Transportation Maintenance & Repair Michael D. Kennedy, P.E., Director, Transportation Maintenance & Repair
Approved by:	Steven A. Kotke, P.E., Director of Public Works
Presenters in	Committee: Michael Kennedy

Approval _NA__ Date _____ Approval _NA__ Date _____

Approval _NA__ Date _____

Financial Impact

Reviews

• No financial impact

Civil Rights Approval

Policy Review Group (PRG):

Permanent Review Committee (PRC):

Community Impact

- Neighborhood Notification: Public hearing notices were sent to property owners within the district subject to service charges
- City Goals: Maintain the physical infrastructure to ensure a healthy, vital and safe city
- Comprehensive Plan
- Zoning Code
- Other

Supporting Information

Renewal of the District

The Downtown Business Improvement Special Service District (the "District"), commonly known as the Minneapolis Downtown Improvement District or DID, was established by Ordinance Chapter 465 in December 2008 and began full service operations in July 2009.

The ordinance establishing the District included an automatic sunset provision at the end of the District's fifth year unless the District was renewed by following the same procedure as set forth in Minnesota Statute 428A for the establishment of a new district. With Ordinance Chapter 465 set to expire on January 29, 2014, the 2013 calendar year is the fifth and final year under the initial ordinance.

In early 2013, a petition to renew the District was initiated by downtown business leaders. After reviewing the petitions submitted, the City Attorney's Office has determined that the petition for renewal of the District complies with the requirements of Minnesota Statute 428A.08 (see attached certification letter).

An ordinance to renew the Downtown Business Improvement Special Service District was introduced at City Council on April 12, 2013 for its first reading and referred to the Transportation and Public Works Committee. Notices of the public hearing were published in the official newspaper of the city on April 19 and May 10. A notice of public hearing was also mailed on April 30 to all property owners subject to the District's service charges. Following adoption of the ordinance, additional procedures are required pursuant to Minnesota Statute 428A.08.

No changes to the District's boundaries are proposed, which are roughly bounded by 2nd Avenue North, 2nd Street South, Chicago Avenue, and various streets along the southern edge of downtown. The District would continue to encompass approximately 120 square blocks and comprise approximately 650 assessable parcels. A legal description and map are attached.

As described in further detail below, no changes to the District's existing ordinance are proposed. If renewed, the ordinance will continue to include an automatic sunset provision whereby the District will expire on December 31, 2018, unless renewed again by following the same procedure as set forth in Minnesota Statute 428A for the establishment of a new district. Additionally, the City or the District Entity have the right to terminate the agreement.

<u>Implementation via Public-Private Partnership</u>

When the District was established, the City entered into a public-private partnership with a District Entity to implement the District's services. Minneapolis Downtown Improvement

District, Inc., a newly created 501c6 nonprofit was formed to serve as the District Entity. In January 2013, Minneapolis Downtown Improvement District, Inc., became a wholly controlled subsidiary of the Minneapolis Downtown Council.

The legal form of the public-private partnership was executed via a single professional services contract between the City and the District Entity. The roles and responsibilities of each partner are listed below.

The City:

- Shall retain ultimate authority and oversight of the District.
- Shall maintain a sole-sourced contract with a single nonprofit District Entity to provide all direct day-to-day management and operation of the District.
- Shall use its authority under MN Statute 428A to impose service charges on eligible property within the District. The City will use these service charges to fund the contract with the District Entity.
- Shall review and approve an annual operating plan and budget for the District.
- Shall monitor overall performance of the District's annual operating plans.
- Shall review the District Entity's independently audited financial statements to ensure compliance with the District's ordinance as well as annual operating plans and budgets.
- Shall allocate City staff to serve on operating committees to coordinate the District's services with on-going City services.

The District Entity:

- Shall provide all direct day-to-day management and operation of the District.
- Shall be responsible for all administrative management of services contracts including specification, procurement, contract management, vendor oversight and payment.
- Shall be governed by a management board including property owners, business owners and others who represent organizations downtown.
- Shall work with property owners to develop an annual operating plan and budget.
- Shall be responsible for communicating and coordinating service delivery with property owners within the District.

Types of Services

Chapter 465 that is proposed to be renewed outlines the categories of services that will be performed within the District and are described in more detail in the District's annual operating plans, which are reviewed and adopted by the City Council each fall. Services fall within three major categories: cleaning, greening and safety. In keeping with the requirements of the enabling legislation, District services will only include work above and beyond what is currently done by the City throughout downtown.

Existing Service Districts

The two existing service districts within downtown, the Nicollet Mall Pedestrian Mall and Hennepin Theater District Special Service District will remain dormant. Services that were previously provided by these existing districts will continue to be provided by the District.

Ordinance Exemptions and City Services Memorandum of Understanding

As described below, the ordinance establishing the District included several exemptions at the request of the downtown business community. In exchange, the District agreed to attempt in good faith to meet the spirit of the exempted ordinances.

 Minneapolis Code of Ordinances ("MCO"): Section 18.200 Equal Benefits provisions in contracts:

The District Entity shall extend any benefits offered to its employees based on marital status to employees with domestic partners registered as such pursuant to Minneapolis Code of Ordinances: Section 142.30. In addition, the District Entity will require its contractors and subcontractors to extend the same benefits to any of their employees providing services to the District.

 MCO Section 139.50 Non-discrimination and Affirmative Action provisions in contracts:

The District Entity shall have a Modified Affirmative Action Plan that meets the City Ordinance.

• MCO Chapter 423 Small and Underutilized Business Enterprise program:

As part of this exemption the District Entity shall, when seeking competitive bids for services in the District, seek bids from, but not limited to, vendors on a list of small and underutilized businesses provided annually by the City.

MCO Section 24.220 (prevailing wage):

The District Entity shall agree that any construction work that requires funding from more than one year's assessment cycle shall be subject to this chapter, but shall otherwise be exempt from the provisions of this section.

Additionally, no changes to the existing City Services Memorandum of Understanding that was executed in 2008 are proposed. This agreement includes descriptions of current City service levels and approximate expenditures for public works and public safety services in the downtown area. These reports serve as a baseline to ensure the District only provides services not normally provided by the City as well as monitor and compare any adjustments caused by City financial, policy and resource changes that might occur in the future.

Recommendation

That the City Council adopt a renewal of MCO Chapter 465 relating to the Downtown Business Improvement Special Service District for an additional five year period.

Attachments:

1. Map of District

- Existing Ordinance, MCO Chapter 465
 Petition cover letter
 Sample petition
 Petition certification letter